

**MINUTES OF THE MEETING OF THE BOARD OF COMMISSIONERS
OF THE OFFICE OF THE STATE APPELLATE DEFENDER**

September 21, 2012

**Office of the State Appellate Defender
Conference Room
203 North LaSalle, 24th Floor Chicago, IL**

The following matters were covered at the September 21, 2012, meeting of the Board of Commissioners of the Office of the State Appellate Defender.

Present - **Board Members:** Honorable David R. Donnersberger, David Reid Clark, Honorable A.C. Cunningham, Jr., and Honorable Michael P. Toomin. Present via teleconference: Honorable Dennis Middendorff, Honorable Scott D. Drazewski, and Thomas F. Sullivan, Jr. Absent: Thomas Breen and Honorable Charles Hartman.

Present - **Agency Staff:** Michael J. Pelletier, State Appellate Defender; Patricia Unsinn, Deputy State Appellate Defender; and Sue Ryan, Senior Administrative Assistant. Present via teleconference: David P. Bergschneider, Deputy State Appellate Defender, and Tonya Janecek, Chief Fiscal Officer and Human Resource Director;

The meeting was called to order by Vice-Chairman Judge David Donnersberger. A motion to approve the minutes of the February 24, 2012, Board meeting was made by Judge A.C. Cunningham and seconded by Justice Michael Toomin. The minutes were approved unanimously.

New Business

A. Report for Fiscal Year 2012

Michael Pelletier reported on the activities of the Agency for Fiscal Year 2012.

The most noteworthy event to have taken place during this fiscal year was an argument by one of our Assistant Appellate Defenders in the United States Supreme Court. On December 6, 2011, First District Assistant Appellate Defender Brian Carroll argued the case of *Williams v. Illinois* in the United States Supreme Court. The issue presented was: "Whether a state rule of evidence allowing an expert witness to testify about the results of DNA testing performed by non-testifying analysts, where the defendant has no opportunity to confront the actual analysts, violates the Confrontation Clause." The United States Supreme Court affirmed the conviction in a highly splintered 4-1-4 decision, with Justice Thomas casting the deciding vote on very narrow and fact-specific grounds. The court ruled in favor of Williams 5-4 (the four dissenters plus Thomas) on the central question of whether the DNA report was introduced for the truth of the

matter asserted, but against Williams 5-4 (the plurality plus Thomas) on the question of whether the statements were testimonial since Thomas held that the uncertified DNA report was not sufficiently formal to be covered by the confrontation clause.

At the end of Fiscal Year 2012, the Capital Post-Conviction Unit was closed resulting in a savings to the State of Illinois of \$850,000. Fortunately, the remaining employees were able to find employment. Two attorneys from the Capital Post-Conviction Unit transferred to the First District Office and continue to work on the 23 pending cases.

Providing training to Public Defenders continues to be a mission of the Agency. Working with the Illinois Public Defender Association on their semiannual seminars, we were able to serve Public Defenders from 45 counties who attended the 2011 Fall Seminar and Public Defenders from 61 counties who attended the 2012 Spring Seminar.

For the annual week-long Illinois Public Defender Voir Dire Workshop and Intensive Trial Advocacy Program at Kent Law School, in its 28th year, we used funds from the training budget to pay the registration fee for the 35 attendees. Additionally, we covered all of the expenses for 16 of the downstate attendees whose counties might not otherwise have been financially able to send them.

A regional seminar for downstate Public Defenders was held in the Spring of 2012 in Springfield, and we continued to assist with expenses which Mr. Pelletier feels is a good use of Agency resources and hopes to be able to continue in the future.

Regarding the Agency caseload, we received 3,172 new appointments - 19 more than Fiscal Year 2011. We were able to dispose of 3,009 cases which is about 180 more cases than the previous year. Mr. Pelletier attributed this increase to being able to fill most of the attorney vacancies in Fiscal Year 2012.

We continue to improve the OSAD internet site. This fiscal year, we are redesigning our web site and making it more available to the public and more user friendly.

Responding to a question from Judge Donnersberger about the expungement program, Mr. Pelletier reported that the expungement program continues to be very successful. Our Springfield expungement attorney recently left the Agency, and we have one attorney in the Chicago office. We are looking at the possibility of replacing the downstate attorney with a paralegal. Additionally, new laws dealing with sealing changes become effective January 1, 2013, so we will be updating our information packet and forms with a focus on making them more user friendly.

Justice Toomin inquired about the Agency backlog. Mr. Pelletier reported that we currently have 4855 cases pending.

B. Operating Budget for Fiscal Year 2013

Mr. Pelletier reported that the operating budget for Fiscal Year 2013 is \$20,611,400 which represents an almost 5% decrease in the budget from the previous year - \$1,078,700 less. The closing of the Capital Post-Conviction Unit eliminated \$850,000 from our budget so we were able to withstand the budgetary decrease.

In the Fiscal Year 2013 budget, we did not request funding for the Juvenile Defender Resource Center or funding for the paid student program. Additionally, there will be no pay increases at all. Employee salaries will remain at the same level as Fiscal Year 2012.

A motion to approve the Operating Budget for Fiscal Year 2013 was made by Justice Michael Toomin and seconded by David Reid Clark. The motion was unanimously approved.

Other Business

The date for the next meeting of the Board of Commissioners was set for Friday, February 22, 2013, to be held in the First District office in Chicago at 9:30 a.m.

Adjournment

There being no further business, a motion to adjourn the meeting was made by David Reid Clark and seconded by Justice Michael Toomin. The motion was approved unanimously.



David Reid Clark
Secretary